

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Nguyen Thi Nguyen)
	Various Parcels) Shelby County
	(See Attached Exhibit A))
	Residential & Commercial Property)
	Tax Years 2005 & 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as summarized in exhibit A.

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on June 6, 2007 in Memphis, Tennessee. In attendance at the hearing were Nguyen Thi Nguyen, the appellant, and Shelby County Property Assessor's representative Jonathan Jackson.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of six single family residences and five duplexes located in Memphis. With the exception of the family home located at 516 Stonewall (020-041-00001), subject property is utilized for rental purposes. The taxpayer purchased subject property between 1989 and 1999.

The taxpayer contended that subject property should be valued as summarized in exhibit A. In support of this position, Ms. Nguyen testified concerning factors she maintained reduce the value of subject property such as its physical condition and location in high crime areas. The taxpayer essentially argued that the current appraised values are excessive given her historical purchase prices and the various factors she asserted cause a diminution in value.

The assessor contended that subject property should be valued as summarized in exhibit A. In support of this position, Mr. Jackson introduced comparable sales for each parcel. Mr. Jackson recommended the indicated reductions in value based upon repair estimates, the comparables or locational adjustments.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued as recommended by Mr. Jackson.

Since the taxpayer is appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2005 constitutes the relevant issue.¹ The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

Respectfully, the taxpayer did not introduce a single sale into evidence to substantiate her opinion of value. Instead, the taxpayer seemingly did little more than increase her original purchase price by an arbitrary amount.

The administrative judge finds merely reciting factors that could cause a diminution in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not

¹ Shelby County was reappraised effective January 1, 2005. The value established as of that date is simply being carried forward for tax year 2006.

produced evidence by which to quantify the effect of the “stigma.” The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . . Absent this proof here we must accept as sufficient, the assessor’s attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

The taxpayer also claimed that the land value set by the assessing authorities. . . was too high. In support of that position, she claimed that. . . the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

The administrative judge finds that Mr. Jackson agreed to reduce several appraisals when Ms. Nguyen introduced repair estimates. The administrative judge finds any further reductions in value inappropriate absent additional evidence from the taxpayer.

ORDER

It is therefore ORDERED that the values and assessments set forth in exhibit B are hereby adopted for tax years 2005 and 2006.

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

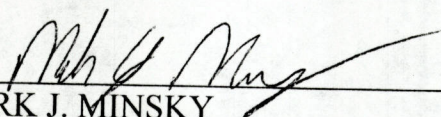
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which

relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 14th day of June, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Nguyen Thi Nguyen
Tameaka Stanton-Riley, Appeals Manager

EXHIBIT A

<u>Parcel ID</u>	<u>Property Address</u>	<u>Current Appraised Value (\$)</u>	<u>Taxpayer's Contended Value (\$)</u>	<u>Assessor's Contended Value (\$)</u>
020-026-00011	213 N. Watkins	63,800	40,000	52,800
033-011-00106	374 Williford	54,800	48,000	50,400
020-041-00001	516 Stonewall	232,200	112,000	200,000
043-071-00012	3525 Mayflower	49,700	35,000	43,600
020-027-00017	210 N. Watkins	55,800	40,000	49,800
021-101-00003	1313-1315 Tutwiler	53,500	35,000	53,500
021-101-00004	1317-1317 ½ Tutwiler	57,600	42,000	53,500
036-005-00007	1429 Tutwiler	35,000	26,000	35,000
020-030-00022	406 N. Watkins	74,900	40,000	74,900
043-072-00040	3524-3526 Mayflower	49,000	35,000	49,000
033-001-00026	2410 Forrest Avenue	43,600	35,000	42,000

EXHIBIT B

<u>Parcel ID</u>	<u>Land Value (\$)</u>	<u>Improvement Value (\$)</u>	<u>Total Value (\$)</u>	<u>Assessment (\$)</u>
020-026-00011	12,100	40,700	52,800	13,200
033-011-00106	11,300	39,100	50,400	12,600
020-041-00001	53,400	146,600	200,000	50,000
043-071-00012	8,200	35,400	43,600	10,900
020-027-00017	8,900	40,900	49,800	12,450
021-101-00003	10,200	43,300	53,500	21,400
021-101-00004	10,200	43,300	53,500	21,400
036-005-00007	10,200	24,800	35,000	14,000
020-030-00022	13,200	61,700	74,900	18,725
043-072-00040	4,800	44,200	49,000	19,600
033-001-00026	9,500	32,500	42,000	16,800